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IN THE HIGH COURT OF JUDICATURE AT BOMBAY.

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2565 OF 2004
WITH
CRI. APPLICATION NO. 2379 OF 2005
IN
WRIT PETITION NO. 2565 OF 2004

M/s. Apte Amalgamations Ltd. and Ors. … Petitioner

Versus

M/s. Win Exports and Ors. … Respondents

Mr. Prakash Naik for the petitioner.

Mr. Ajay S. Jajodia, power of attorney holder of respondent no.1 present in person.

Smt. A.A. Mane, A.P.P. for State.

CORAM : M.L. TAHALIYANI, J.
DATED : APRIL 18, 2015

P.C.

Heard Mr. Prakash Naik, learned counsel for the petitioner and Mr. Ajay Jajodia, power of attorney holder of respondent no.1 M/s. Win Exports and another and also heard learned A.P.P. for the State.

2. The petitioners are aggrieved by an order passed by the learned

Additional Chief Metropolitan Magistrate, 5th Court, Dadar on 13th December, 2001 asking them to appear before him to answer the charges for the offence punishable under section 417, 468, 469 and 471 read with 34 of Indian Penal Code.

3. The allegations against the petitioners in Criminal complaint filed before the Magistrate by respondent no.1 are that respondent no. 1 had supplied certain goods to the petitioners and that the petitioners had issued form N-15 which entitled them to get exemption of 6% of sales tax. It is submitted by the power of attorney holder of respondent no.1 that in fact the petitioners were not entitled/authorized to issue form N-15. It is submitted that ultimately the duty exemption given by respondent no.1 to the petitioners was levied from respondent no. 1 by the Sales Tax Department along with interest. The demands made by respondent no.1 to the petitioners were without any result.

4. After having gone through the complaint and after having heard power of attorney holder of respondent no.1, it is very obvious that Form N-15 was wrongly issued. However, it cannot be said that the petitioners had prepared false document with dishonest intention and therefore have committed forgery. In my opinion, the learned Magistrate has not applied his

mind to the facts of this case and has superficially passed the order. The proceeding pending against the petitioners needs to be quashed.

5. The proceeding pending against the petitioners in the court of Additional Chief Metropolitan Magistrate, 5th Court, Dadar being Criminal Case No. 517/S/03 shall stand quashed. The bail bonds, if any stands cancelled. Rule is made absolute in above terms.

6. In view of the disposal of the petition, Cri. Application No. 2379 of 2005 does not survive and the same is also disposed of.

(JUDGE)